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Book Author(s): Azza Basarudin

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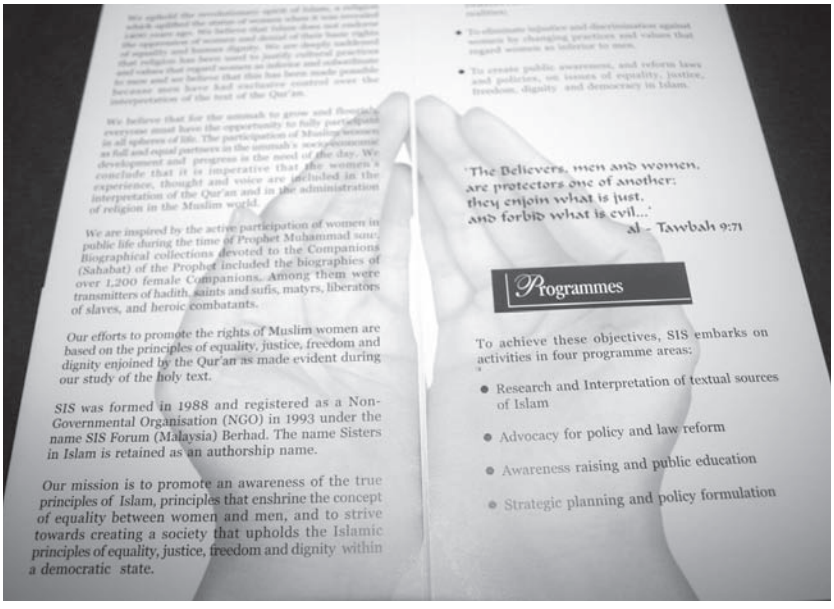
We are inspired by the active participation of women in public life during the time of Prophet Muhammad saw. Biographical collections devoted to the Companions (Sahabat) of the Prophet included the biographies of over 1,200 female Companions. Among them were transmitters of hadith, saints and sufis, matyrs, liberators of slaves, and heroic combatants.
Our efforts to promote the rights of Muslim women are based on the principles of equality, justice, freedom and dignity enjoined by the Qur'an as made evident during our study of the holy text.
SIS was formed in 1988 and registered as a Non-Governmental Organisation (NGO) in 1993 under the name SIS Forum (Malaysia) Berhad. The name Sisters in Islam is retained as an authorship name.
Our mission is to promote an awareness of the true principles of Islam, principles that enshrine the concept of equality between women and men, and to strive towards creating a society that upholds the Islamic principles of equality, justice, freedom and dignity within a democratic state.
'The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil...'
al - Tawbah 9:71
Programmes
To achieve these objectives, SIS embarks on activities in four programme areas:
Research and Interpretation of textual sources of Islam
Advocacy for policy and law reform
Awareness raising and public education
Strategic planning and policy formulation

3.1. SIS brochure

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3

In the Path of the Faithful

Activism for Social and Legal Reforms

SIS's strategy of interrogating androcentric interpretations of Islam and calling for a reexamination of the sources of Islam is not an isolated phenomenon. An intellectual tradition of women taking an active role in Islam can be traced to the first community of Muslims, in which the Prophet's wives, A'isha and Umm Salama, demonstrated their sharp acumen by questioning women's roles and status. Umm Salama reportedly asked the Prophet why women are not mentioned in the Qur'an, and, as a result, verse Al-Ahzab 33:35 was revealed, which addressed both women and men and underscored equal rights and responsibilities (Mernissi 1991, 118). In the nineteenth and twentieth centuries, women such as A'isha Taymūr and Nazira Al-Halabi embarked on Qur'anic interpretations to address women's rights issues (cooke 2010; Hatem 2002). Organizations such as the Canadian Council for Muslim Women, Rahima (in Indonesia), Karamah: Muslim Women Lawyers for Human Rights (in the United States), Haraer (in Yemen), and the Federation of Muslim Women Association of Nigeria are just a few among many that demonstrate a similar strategy of engaging Islam.

In its advocacy, SIS fosters the notion that community and country are beneficiaries of gender justice. It does so by positioning women's rights discourses within situated elements to direct social and legal reforms. Women's rights to self-determination are presented not only as benefiting Malaysian Muslims and the global *umma*, but also exemplifying Malaysia's Islamic modernity, a branding that the state painstakingly nurtures and actively promotes. I demonstrate SIS's process of trans-

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lating feminist hermeneutical theories into grounded activism in the following sections: Polygamy: Disentangling "Rights" and "Responsibilities"; Domestic Violence and Gender Equality; Contesting "Un-Modern" Syariah Criminal Offences Enactments; Islamic Family Law (Federal Territories) (Amendment) Act of 2005; Religious Freedom and Multiculturalism; and State Regulation of Behavior and Morality.

POLYGAMY: DISENTANGLING "RIGHTS" AND "RESPONSIBILITIES"

The Beginning

Historically, polygamy was practiced in the Malay, Chinese, and Indian communities under customary laws. The Law Reform (Marriage and Divorce) Act of 1976 (effective March 1, 1982) applies only to non-Muslim marriages and outlawed polygamy in Chinese and Indian communities. Muslims were allowed to continue polygamy under Islamic family law (IFL). Why was polygamy abolished for non-Muslims and not for Muslims? How do group rights factor into the quest for legal autonomy and community cohesiveness? Selectivity in law and lawmaking is connected to maintaining Malay-Muslim hegemony and the role of Islam in governance. In the case of polygamy, legal codes derived from divine sources play a central role in organizing the boundaries of identity and forms of national belonging. The role of law in structuring the private domain and intimate relationships is tied to politics and subsequently to the state-driven processes of Islamization. Family is a locus of transformation in which gender roles and power dynamics are contested and remade, and where hierarchal structure is naturalized. In turn, gender hierarchy within the family informs social organization in society. As Anne McClintock argues, "The family image came to figure *hierarchy within unity* as an organic element of historical progress, and thus became indispensable for legitimating exclusion and hierarchy within nonfamilial social forms such as nationalism, liberal individualism and imperialism" (italics in the original) (1995, 45). Thus, women's sexuality is indispensable in maintaining racial supremacy via Islamic law.

Polygamy as commonly practiced in Malaysia involves co-wives living in separate houses with children, with the husband dividing his time between multiple households. Reasons given for entering into polygamy

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are love, depression, children, sympathy, and Islamic rights, as well as uncontrollable sexual desires and avoidance of social ills (Raihanah Abdullah 1997, 178). Between 1995 and 2004 the number of polygamous marriages in Malaysia was 13,516 (*Star Online*, December 29, 2006). But this statistic does not include men who did not register their marriages, indicating that the number of polygamous marriages could potentially be much higher. The view that polygamy is an inalienable right afforded to Muslim men is one that SIS is working to dismantle. The director of an Islamic NGO, Hamid Kahar, stated that "having four wives is the sacred right of man granted by Allah. It's in the Qur'an and hadith. There is nothing to debate about this . . . but of course one must be fair to all wives."

Many view polygamy as a means of controlling adultery, prostitution, and incest. Furthermore, polygamy is naturalized because of normative acceptance of male and female sexualities: men's desire (*nafsu*) is considered hyperactive and their lust uncontrollable, while women's desire is passive, and as a result women are "naturally" unable to satisfy their husbands. JAKIM states that polygamy is a testament to the "perfection of the Islamic law because it is able to prevent human beings from adultery [*zina*] and the practise [*sic*] of keeping mistresses, which are obviously cruel to one self and to women" ("Polygamy Is a Conditional Necessity," Law Enforcement Coordination Division, 8). Ironically, the much-maligned Islamic group Global Ikhwan, which has been accused of spreading "deviant" teachings of Islam, espouses a similar view to that of JAKIM with Global Ikhwan's establishment of the Polygamy Club to promote the practice. However, Global Ikhwan takes it one step further with a companion group dubbed the Obedient Wives Club that encourages wives to be sexually adventurous to prevent their husbands from straying.[1]

SIS's first act of media advocacy was in 1990 in the form of a letter to the editor of the local newspaper, the *Star*, concerning polygamy. In the case of *Aishah Abdul Rauf v. Wan Mohd Yusof Wan Othman*, a man of "considerable means" decided to take a second wife, Noorkulamasari Mohd Taib, a popular model-turned-actress (*New Straits Times*, August 11, 1990). He filed the petition for approval from a judge in the lower *syariah* court, but his wife, Aishah, appealed the decision. The Selangor state appeal committee overturned the judge's decision to allow Wan Yusof the right to take a second wife because he had not fulfilled all the conditions

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set by the Islamic Family Law (Federal Territories) Act of 1984. Under this act, five conditions must be fulfilled before a judge can sanction a polygamous marriage: (1) the marriage must be just and necessary; (2) the husband must have the financial means; (3) the husband must have the consent of existing wife or wives; (4) there must be equal treatment of wives; and (5) the proposed marriage must not cause harm to the existing wife or wives.[2] The committee ruled that the judge had considered only the financial aspects of the polygamy contract and had disregarded whether the proposed marriage was both just *and* necessary. Moreover, the committee argued that the judge had overlooked whether Wan Yusof had the capacity to treat both wives equally. The ruling inflamed the sensibilities of those who believed that polygamy is the immutable right of men and prompted an impassioned national debate in the local newspapers (*Berita Minggu*, August 5, 1990).

In the letter, titled "Polygamy Is Not a Right in Islam," SIS supported the court's decision by suggesting that the theory and practice of polygamy is a *tanggungjawab* (responsibility) and not a *hak* (right).[3] The letter aimed to unsettle three "popular misconceptions" of polygamy: that it is a "God-given right enshrined in the Qur'an"; that it is the "ideal solution to men's alleged insatiable sexual drive"; and that a woman who allows her husband to contract a polygamous marriage is "assured of a place in heaven" (SIS 1990). SIS suggested that Qur'anic teachings on equality and justice designate monogamy as the "original and ideal state of marriage in Islam. . . . We urge our sisters and brothers in Islam to go back to the Qur'an and read its words carefully. To allege that the recent judgment of the appeal court is against *hukum syarak'* [*syariah*] is a gross denial of the true intent and spirit of justice so insistently enjoined by the Qur'an." Based on their *ijtihad* on Qur'anic verses and research on the sociohistorical narratives of the Battle of Uhud,[4] the members argued that polygamy is a contextually specific and restrictive practice: in the aftermath of war and chaos, God could have endorsed unrestricted polygamy but instead constrained the number of wives to four. They stressed that Qur'anic chapters and verses must be interpreted in context and in relation to one another. They built on the following verses to suggest that the main concern of polygamy was the welfare of orphans and women:

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Polygamy not a right enshrined in the Quran
KELUARGA
KUMPULAN PUTERI ISLAM BERUSAHA BETULKAN PENYELEWENGAN SEJARAH
Puteri-puteri Islam bantah pandangan sempit Nik Aziz
ISIS INTERNAL

3.2. SIS letters to the editor in various local newspapers

> An-Nisa 4:3: "If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if ye fear that ye shall not be able to deal justly [with them], then only one, or [a captive] that your right hands possess, that will be more suitable, to prevent you from doing injustice."
>
> An-Nisa 4:129: "Ye are never able to be fair and just between women, even if it is your ardent desire."

By historicizing polygamy, SIS stressed that it was not intended to satisfy men's lust. Furthermore, the revelation came with additional restrictions, one of which was that polygamy is permissible so long as a man can support and treat all of his wives in a fair and equal manner.

Monogamy: The Ideal Marriage Structure

In relation to the polygamy issues that have surfaced since 1990, SIS has been actively speaking out against misinterpretation of sources of Islam and unjust practices through letters, memorandums, and campaigns, as

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well as by voicing support for various legal reforms. The end goal is an across-the-board reform of family law that is based on equality and justice. SIS calls for stringent application of polygamy laws and administrative mechanisms to ensure that justice is served. For instance, when debates on re-legalizing polygamy for non-Muslim communities were revived, SIS chastised the Muslim community for not leading by example to eradicate the practice (SIS 2002c). Similarly, SIS spoke out against the proposal to bestow "medals" on wives who allowed their husbands to be polygamous in an effort to curb social problems and increase the living standards of single mothers (SIS 2002b). SIS applauded Selangor's move to tighten the process of entering into polygamy by requiring that the consenting parties be present in court before permission would be granted for a polygamous marriage (SIS 2003a). And SIS objected to the initiative in Melaka to provide subsidized housing for polygamous men (SIS 2004). Most recently, SIS slammed PAS's contest that provided monetary and social recognition for the "model polygamous husband" because this recognition trivializes injustices arising from this practice (SIS 2013).

In each aforementioned media campaign, SIS drew on their strategy of combining feminist hermeneutics, constitutional law, and human rights principles. The members reiterated the ethical message of the Qur'an by arguing for equality between men and women, a "responsibility" versus a "rights" framework, the sanctity of marriage, the preservation of human dignity, and a morality of piety and self-control. They cited provisions of the Constitution, such as Article 8 (2), that prevent gender discrimination, and they referred to lived realities in which men are no longer sole providers and women homemakers. They invoked Malaysia's commitment as a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), recognition of the Universal Declaration of Human Rights (UDHR), and the Beijing Declaration and Platform for Action. Malaysia, however, recognizes UDHR so long as it is consistent with the Constitution. For the most part, the state views UDHR as inconsistent with Malaysian culture and values because it prioritizes civil and political rights as opposed to community and economic rights (Castellino and Domínguez Redondo 2006, 147–91). It is perceived as encroaching on state sovereignty and as an exercise in cultural imperialism. In place of UDHR, the state prefers to adopt Asian values that are deemed more compatible with Malaysian culture. Aside from negotiating

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state resistance to its activism, SIS also contends with the challenges of mediating human rights into local consciousness.

Polygamy is a deeply personal issue for SIS members who have families or close friends in such marriages and who grew up in such family structures. Nadia Zulkifli, a staff member whose sibling is in a polygamous marriage, stressed, "I am against polygamy. The interpretation that allows men the right to four wives comes with a lot of conditions. God knows that men are only human and are not able to fulfill these conditions." Nadia and I spent a lot of time discussing family and marriage, and over the course of my fieldwork she became more comfortable sharing intimate details about her immediate and extended family. Raised in an upper-class household similar to those of the Malaysian founding members, her family was "modern but traditional," with a civil servant father who had "British mentality and ethics." Religious rituals such as praying and fasting coexisted with mixed-gender dinner parties and alcohol in her home. Nadia's father gave his children the freedom to live their own lives but insisted that they value their Muslim heritage and honor Islam as their faith. Her father always reminded his children that "religion cannot be understood without reason" and that those who resort to indoctrination are "not walking on God's path." Nadia and her polygamous brother have an uncomfortable relationship because Nadia is vocal about her objection to polygamy. Nonetheless, she tells me, over the past decade she has come to respect her brother's struggle to treat both of his wives and families equally, even as she disagrees with his lifestyle.

Aida Samian, a newly recruited staff member who was raised in a polygamous family, shared her experience:

> Every time I tell the story about my dad having two wives, it breaks my heart. It also makes me *sakit hati* [angry]. The way my mother suffered hurts me. I am the eldest, and my stepmother is only three years older than me. I do not know how my younger siblings cope, when I have a difficult time with it. It is not the husband who suffers but the wife and children. One is lucky if the father is responsible and cares about his two families, but there are many irresponsible fathers and unhappy children. I am frustrated with my father and my life. It is a miserable existence. My life is like *perahu tanpa arah, tanpa nakhoda* [a boat without destination, without a captain].

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Aida is an outspoken girl in her mid-twenties. She was raised in a working-class family and completed an undergraduate degree at a local university. Religious education was not a staple of her upbringing. She came to SIS because she was attracted to its work and wanted a deeper understanding of Islam so that she could make sense of her personal experience. Aida's father maintained separate households but spent most of his time with his younger wife, with whom he had four children. As a result of her father's second marriage, Aida's mother sank into severe depression. Aida took over the responsibilities of managing the household and taking care of her siblings, including reminding her father to provide monetary support on a regular basis. Aida values SIS's promotion of monogamy because her experience taught her that polygamy has irreversible effects on a child's psyche. She was visibly traumatized when sharing her story about growing up in a dysfunctional family, and when speaking about trusting men and investing in a long-term relationship.

For Suhaila Amin, a staff member in her early twenties, polygamy tests the boundaries of her personal understanding of Islam. At a coffee shop in a shopping mall, she conveyed that she had been raised in a working-class family and that her knowledge of Islam is based on religious classes she attended in her neighborhood and on her family's practice. Polygamy, as she was raised to believe, was about the right of men to have more than one wife. Women were not to question this right but to make do with whatever the husband decided. Working with SIS has exposed Suhaila to the relationship between women's rights and polygamy. It has called into question what she has been taught and what she has witnessed among her family and friends, and it is shifting her understanding of Islam. She is still undecided about her position on polygamy, and said,

> I am still learning about the Qu'ran through SIS. It has broadened my knowledge, but I have much, much more to learn. I can't say that SIS has convinced me that monogamy is best. But I don't like the idea of sharing my future husband and can only hope that he will not take additional wives. Who in their right mind wants to share their husband? Polygamy must be analyzed on a case-by-case basis because passing an uncompromising judgment is unfair to those who choose to do so or need to do so. But ultimately I still don't know how I feel about this matter.

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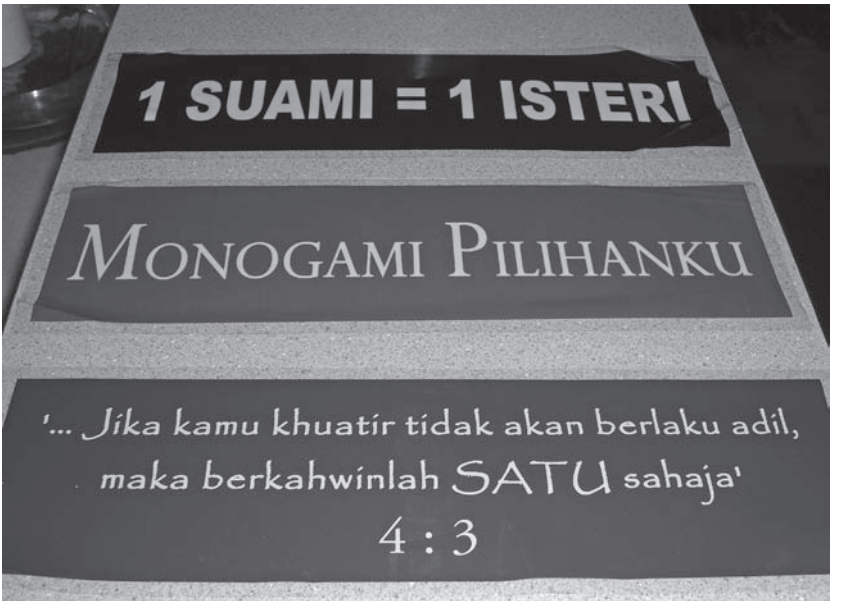

3.3. SIS campaign bumper stickers. From top: 1 husband = 1 wife; Monogamy, My Choice; ". . . if you fear you cannot be fair, marry only ONE" 4:3

When asked how her personal feelings translate into her professional life, Suhaila says that her coworkers understand her dilemma and are not pushing for her to decide where she stands. This, according to her, is the benefit of working for SIS: she is able to gain knowledge about Islam that she was never exposed to, while at the same time she has the space to come to her own understanding of what she was taught and what she now knows as the "other face of Islam" that cares about women as much as men.

In 2003, as the secretariat for the Coalition of Women's Rights in Islam,[5] SIS introduced the "Monogami, Pilihanku" (Monogamy, My Choice) campaign to promote the concept of "Satu Suami Satu Isteri" (one husband, one wife). Three bumper stickers were produced bearing the following slogans (fig. 3.3): "1 Suami = 1 Isteri" (1 Husband = 1 Wife), "Monogami, Pilihanku," and "'. . . Jika kamu khuatir tidak akan berlaku adil, maka berkahwinlah SATU sahaja' 4:3" (If you fear you cannot be fair, then marry only ONE 4:3). Launched by Endon Mahmood, the late wife of the former prime minister Abdullah Badawi, the campaign sought to

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educate women on their marital rights, including adding a clause to their premarriage contracts allowing them to petition for *cerai taklíq* (divorce based on breach of contract) if their husband takes another wife. While this campaign was founded on the need to increase women's awareness of their rights, the more salient aspect was to deter Muslims from accepting polygamy as a normative practice.

Those who worked on the campaign claimed that many Muslims focus on the first part of Surah An-Nisa 4:3 to justify their support for polygamy: "If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two or three or four." This majority is either unaware of or ignores the second part: "But if ye fear that ye shall not be able to deal justly [with them], then only one, or [a captive] that your right hands possess, that will be more suitable, to prevent you from doing injustice." According to my interlocutors, the lesser-known part of An-Nisa 4:3 (featured on the bumper sticker), if read in conjunction with other verses such as An-Nisa 4:129, indicates that polygamy should be a conditional practice, at best, allowed under special and limited circumstances. Although this interpretation has been criticized as selective, for these coalition members it is a holistic understanding of a contextually specific revelation that led them to recognize that polygamy is not intended to inflict injustice or hardship.

Many intellectuals and activists celebrated the "Monogami, Pilihanku" (Monogamy, My Choice) campaign as a step toward realizing equality and justice for women in the IFL. However, JAKIM greeted it with suspicion, and several muftis (jurists) called for the campaign to be halted. The muftis lambasted the campaign as being "bertentangan dengan hukum syarak" (against *syariah*), "boleh menjejaskan akidah umat Islam" (jeopardizing the beliefs of Muslims), and "menjejaskan imej Islam" (distorting Islam's image). The coalition was accused of spearheading a ban on polygamy, questioning men's Islamic rights, and promoting *cerai taklíq* based on its members' *emosi* (emotions) and *kemarahan* (anger) (*Utusan Malaysia*, March 17 and 19, 2003). This controversy led the coalition to issue a press statement clarifying that the campaign had been "misunderstood" and "misconceived." The coalition said that it was not calling for "a ban on polygamy" but instead was advocating equitable legal recourse for women unable to live with polygamy (SIS 2003b).

After the press statement was issued, SIS was summoned by JAKIM

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for a closed-door meeting. SIS reframed the campaign as an effort to build *keluarga bahagia* (harmonious family), but stressed that this could only be achieved through monogamy. The focus on family rights satisfied JAKIM but left some coalition members uneasy. It was perceived as an effort to placate the religious department and a failure to uphold the campaign's initial aim, which was to be critical of discriminatory IFL and Muslim practices. In my discussions with various NGO activists, it was made clear that the reframing was "unacceptable," "unfeminist," and "spiritless." Some even went as far as to say they felt "betrayed" by the move. While the reframing could be construed as undermining the campaign, strategic maneuvering is essential to secure a dialogue with those who wield power to legislate laws and policies. It creates a space for women to question the practice of polygamy as sacrosanct. More important, it allows the coalition members, specifically SIS, to assert the right to redefine women's relationship to Islam.

National Research on Polygamy

SIS is aware that the monogamy campaign was insufficient to generate awareness or reform laws. The organization has been consistently confronted by JAKIM officials who ask for irrefutable statistics and evidence beyond the cases of abuse or neglect in the polygamous marriages SIS handled. In response, a research project was initiated in 2007 in collaboration with three local universities to examine the impact of polygamy on women's personal lives, economic situations, and social conditions. The research was the first of its kind in peninsular Malaysia—it combined qualitative and quantitative methods. It incorporated in-depth interviews with husbands, first wives, subsequent wives, children of first wives, and children of subsequent wives to unpack their experiences with polygamy. Malacca, Penang, and Pahang, along with Sabah and Sarawak, were excluded from this research because existing JAKIM statistics indicate that polygamy is "very low" in these states (*Star Online*, December 29, 2006). Some of the research areas were familial relationships, financial conditions, psychological and sexual health, social relationships between family members, and legal structures that protect family members. This research amassed more than twelve thousand qualitative and quantitative questionnaires and a significant number of in-depth interviews.

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Researchers found that 70 percent of first wives sought counseling after their husband took another wife, and 30 percent of them had to secure employment to maintain their families because their husbands were no longer financially able to support their households (Ratna Osman 2011). Second wives also bore the financial burden of maintaining their husbands' polygamous households, which subverts normative perceptions that second wives are "husband stealers" (*kemaruk laki orang* or *curi laki orang*) living a life of leisure (Masjaliza Hamzah and Norani Othman 2010, 2). The findings indicate that polygamy has adverse affects on parent-child relationships: children blamed absent and negligent fathers on their mothers; male children formed strong opinions either for or against polygamy—those supporting it insist on carrying on polygamy because it is their right as Muslim men, while those against it demonstrate protectiveness for their mothers by voicing the need for more female *syariah* judges who are sensitive to the plight of women; and female children often overcompensate by excelling in their studies to ensure they do not have to depend on men (Ratna Osman 2011).

This research also centers on *nafkah batin* (conjugal obligation). Husbands are expected to rotate sexual relations equally among their wives, but many women are sexually frustrated because their husbands fail to divide intimate time equally. SIS research documented ways that women compete for sexual attention and fulfillment, sometimes resorting to visiting a *bomoh* or *dukun* (shaman) to obtain *ubat pengasih* (love potions), or to casting evil spells on the other wife or wives. Women candidly discussed their sexual dissatisfaction, while husbands expressed their concerns over how their wives have resorted to being "sexually competitive and manipulative" (Masjaliza Hamzah and Norani Othman 2010, 2–3). Men also bear the burden of polygamy; they are increasingly unable to cope with multiple and overlapping responsibilities. Moreover, their masculinity is under scrutiny due to the need to prove their sexual prowess.

Along with the 2005 amendment to the IFL Act of 1984 that modified the first condition of polygamy from "just *and* necessary" to "just *or* necessary," this research raised the question of whether Qur'anic principles of equality and justice are being disregarded by lawmakers and polygamy practitioners. The amendments introduced since 1996 have consistently made it easier for men to be polygamous and more difficult for women

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to seek justice. Suhana expressed hope that concrete data and analysis from SIS's polygamy research will reinforce the argument that polygamy, if considered a man's "right" as opposed to "responsibility," not only contradicts restrictions laid out in the Qur'an but also contributes to larger social problems (e.g., weak nuclear families and neglected children). It is SIS's goal that Muslims understand monogamy as the preferred marriage structure and polygamy as a contextualized practice that comes with severe restrictions and responsibilities. SIS's activism is consistent with its mission to move away from practices of *taqlid* and to emphasize the importance of *ijtihad* in cultivating civic-minded Muslims who embody Qur'anic ideals of reciprocity between genders.

The strategy of using men's responsibility to support monogamy is an approach that cuts across national boundaries. This was demonstrated by a study of the women's sections—Muhammadiyah's 'Aisyiyah and Muslimat Nahdlatul 'Ulama—of the two largest Muslim organizations in the world, Muhammadiyah and Nahdlatul 'Ulama in Indonesia. The study demonstrates how 'Aisyiyah's members have struggled to shape a clear understanding of responsibility in marriage and family life by articulating a vision of a *keluarga sakinah* (harmonious family) that emphasizes men and women's mutual rights and responsibilities in an effort to protect women's rights in marriage (van Doorn-Harder 2006, 117). Similar to SIS, 'Aisyiyah's members, in working within their religious framework, do not seek to dismantle the practice of polygamy but to stress that *keluarga sakinah* can be realized only through monogamy. The approach of privileging the family discourse can be understood as a strategy to advocate for monogamy within contextually specific national cultures.

However, SIS differs from 'Aisyiyah in their structure and aim. 'Aisyiyah's connection to Muhammadiyah as a women's section necessitates that it function in accordance with the organization's principle of "one vision, one mission," which presents gender roles and relations as complementary. Therefore, 'Aisyiyah activists, while protecting and promoting women's rights in Islam, also inadvertently contribute to the reproduction of women's unequal status (van Doorn-Harder 2006, 81). SIS bases its activism on principles of equality, that is, the notion that equality is not only a Qur'anic mandate but also a necessary component of human existence. Moreover, SIS's strategy of explaining "men's responsibility" exposes the intricacies of hegemonic Islam in Malaysia, wherein the patriarchy serves

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the religious monopoly and vice versa. In turn, SIS highlights how such a configuration continues to maintain the status quo.

DOMESTIC VIOLENCE AND GENDER EQUALITY

Domestic Violence Booklet

In Malaysia, because of the prevalent attitude toward the inviolable nature of marriage, domestic violence is considered a private family matter and an invisible societal problem. A national study reported that 36 percent of women over the age of fifteen were estimated to have experienced domestic violence at the hands of their partners (Women's Aid Organisation 1995). Since the first shelter for survivors was established in 1982, women's groups have campaigned for a domestic violence law. In 1989, the Joint Action Group against Violence against Women (JAGVAW) drafted a domestic violence act and submitted it to the Ministry of National Unity and Social Development. The Domestic Violence Act (DVA) was passed in 1994 but was not implemented for two years.[6] Suhana explained that the ambiguity about jurisdiction over Muslims in the DVA warranted the founding members' involvement:

> Women's groups campaigning for a domestic violence law were having problems with Islamic authorities and needed our help. Some Islamic authorities objected to criminalizing domestic violence because their interpretation of An-Nisa 4: 34 made them believe Muslim men have the right to beat their wives. They also believed the DVA conflicted with IFL on violence in the marital home. We examined this verse to determine whether the Qur'an advocated wife beating. We looked at multiple interpretations, read it in relation to other verses, and found that equality, respect, and love are important factors.

SIS's involvement also led to the publication of two groundbreaking booklets, "Adakah Lelaki Islam Dibenarkan Memukul Isterinya?" (Is a Muslim Man Allowed to Beat His Wife?) and "Adakah Wanita dan Lelaki Saksama Di Sisi Allah?" ("Are a Man and a Woman Equal before Allah?").[7] SIS members focused on deconstructing 4:34, which is commonly cited as the foundation for Muslim women's subordination:

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> Men are the protectors and maintainers of women, because Allah has given the one more [strength] than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in [the husband's] absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill conduct, admonish them [first], [next], refuse to share their beds, and [last], beat them [lightly]; but if they return to obedience, seek not against them means [of annoyance]: For Allah is Most High, great [above you all].

These women argue that the terms "protectors and maintainers" connote responsibility, not superiority, and that the status of women and gender roles must be understood within a specific sociohistorical context. Their booklet on domestic violence suggests that the Qur'an provides guidelines for addressing marital disputes in a constructive manner: "Islam does not allow a husband to act cruelly to his wife, either physically or mentally. The Qur'an stresses love, kindness, and justice in family relationships and prohibits cruelty of all kinds" (SIS 1991a, 3–4). If understood otherwise, these women suggest, it is because patriarchal interpretations have marred the Qur'anic message of equality and justice.

On the matter of *taat* (obedience), SIS deduced that it has been misunderstood as women's deference to men. *Taat* indicates a relationship in which both genders are mutually dependent. The issue of beating, the group argues, has to be considered in the context of the *jahilliyah* ("age of ignorance" in reference to pre-Islamic Arabia) during which "women's emotional and physical oppression," "violence against women" and the practice of "burying female children alive" were rampant (9). In such a context, the injunction to "beat them [lightly]" can be considered revolutionary. The group cites interpretations that propose beating be carried out using "kayu sugi/berus gigi" (a toothbrush) or "saputangan yang terlipat" (a folded handkerchief) as further evidence that the practice can be construed as "suatu halangan daripada suatu dorongan" (deterrent rather than encouragement; 10). Moreover, these women suggest that later verses in the Qur'an speak of men and women as protectors of one another, and of marital harmony as a collaborative endeavor. They also allude to the Prophet Muhammad's respectful treatment of his wives as an example to further deter domestic violence.

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While SIS's activism debunks entrenched understandings of obedience and the permissibility of marital violence by placing An-Nisa 4:34 in its historical context and by reading Qur'anic verses in relationality instead of in isolation, the allowance for beating, irrespective of the severity, methods, or tools, has troubling implications that cannot be ignored. How, then, can one read the verse in a manner that deconstructs the contentious aspects and affirms the Qur'anic spirit of justice, yet acknowledges its problematic allowance? An-Na'im suggests the concept of *accepting* the inconsistencies of harsh verses and continuing to work with other verses that speak to universal principles of justice.[8] He deduced that contextualizing the verse could not provide a rational explanation to justify domestic violence. Wadud suggests the refusal of verses that are spiritually and intellectually incompatible with the divine message of equality and justice. She argues that this move neither negates belief in the revelation nor in Islam:

> As for "no" to the Qur'an, let me summarize the work I have been doing to overcome some of the apologia of *Qur'an and Woman*. Yes, the Qur'an I believe and love is considered a form of Allah's self-disclosure, but I do not believe God is locked into the seventh-century Arabian context with its limitations based on coherency in that context, including Arabic, to have a universal underpinning of TRUTH, justice, and love. I accept every word as sent by revelation from Allah to the Holy Prophet whose own example embodied and demonstrated those underpinnings universal (he never literally beat any of his wives, for example). When I say "no" it is not to the integrity of the literal text, it is to the implementation of some practices, which is a fourteen-centuries-long debate. That is why the jurists "set conditions upon" things like "beating" and "cutting." I consider that an interpretive intervention. Other interpretive interventions, like *Qur'an and Woman,* encourage the polysemic nature of reading and understanding and offer egalitarian interpretations against patriarchal ones, with no ONE having the final word. That belongs only to Allah and Allahu A'lam. But now I wish to point more directly that anything other than literal reading is a demonstration of agency to Allah, working in concert with the text, as words and intent to sustain the underlying principles and values, such that today, the Qur'anic approval of Slavery, for example, IS NOT IMPLEMENTED. I wish to state

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> my acceptance of certain problematic moral practices but with out-and-out refusal to implement them. AND to stop lying to make other people feel comfortable, I say so, without losing a single ounce of my love of the Qur'an and my devotion to Allah.

Wadud sums up how she came to her position on wife beating: "It is the Qur'an that gives me the means to say no to the Qur'an" (Wadud 2005).

Although SIS's intervention in the early 1990s was groundbreaking in the context of Malaysia and beyond, it did not negate the permissibility of physical violence in a marital relationship. While these women call attention to the historicity of revelation and the interpretative process, and they highlight verses that support equality and justice, they do so by moving away from acknowledging the most contentious aspect of An-Nisa 4:34. At the strategic level, such an approach is understandable, however it also allows assumptions of "men's rights" to remain unchallenged in society.

Gender Equality Booklet

In their equality booklet, the founding members of SIS suggest that the Qur'an does not differentiate between sex and gender: "The male and female make up a pair . . . neither comes before the other . . . no priority is accorded to either man or woman." They further state that "due to a number of historical and cultural factors, Muslims have come to believe that Allah created woman from man's rib, and woman is therefore, in her origin, derivative and secondary; that men are inherently superior to women; and that women are for men's use" (SIS, 1991b, 3). Citing numerous verses that address the duality of creation and the responsibilities of both men and women, they stress that when verses are read in a relational manner instead of in isolation, it is apparent that both genders are considered equal in all aspects of human existence.[9] To bolster their argument, these women cite verse Al-Hujurat 49:13, which states that superiority in Islam matters only in relation to an individual's *taqwa* (piety).[10]

Linda Alman, a former staff member, told me how she had convinced her spouse that women are not inferior to men: "One of the things I brought up was the misunderstanding that Eve was made from Adam's left rib. I told my husband that it is not in the Qur'an. He was shocked

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but did not argue with me. I know he was skeptical because he was taught that a woman came from a man's rib and is therefore inferior. A few months later he said that he appreciated my views on women in Islam. He confessed researching the 'man-woman-rib' story and realized I spoke the truth." Linda comes from a middle-class family and has three children. She disagrees with many of the views her spouse holds regarding gender roles and women's rights. One of the reasons she left SIS was because she could not handle the pressure that her professional life put on her marriage; the frequent disagreements were unhealthy for her children. Despite that, Linda is determined to assert her beliefs, and hopes that in due course her husband will "unlearn [his] religious indoctrination." While Linda no longer works full-time for SIS, she has returned on a contractual basis to lead workshops and study sessions. She says that the satisfaction she receives from being in the company of women who know their rights, understand their religion, and view equality and justice as foundations of Islam is "addictive" and makes it "impossible" to stay away.

By pursuing equality and justice from within their religious tradition, the founding members of SIS have demonstrated that the discourses and practices of gender injustice are inherently anti-Islam. Producing a gender equality booklet was a discursive strategy to demonstrate not only that Muslim women are not secondary or deficient in the creation process, but also that discriminatory Muslim practices are a result of patriarchal interpretations of sources of Islam and the influence of historically and culturally situated viewpoints.

CONTESTING "UN-MODERN" SYARIAH CRIMINAL OFFENCES ENACTMENTS

Each of the thirteen states in Malaysia can make its own laws governing Muslims under IFL, which is concerned with personal matters such as betrothal, marriage, divorce, maintenance, and custody. Each state is also responsible for laws relating to "offenses" under the Syariah Criminal Offences Enactments, such as apostasy, gambling, drinking, participating in beauty pageants, and failure to attend Friday prayers (for men) or fast during Ramadan. The "offenses" are conceptualized as such based on a clause in the Constitution that allows "creation of offenses by persons

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professing the religion of Islam against the precepts of that religion" (9th Schedule, List II [State List], Federal Constitution 2006, 272–73). These "offenses" are dependent upon each state religious council's interpretation of Islam. States are allowed to determine their offenses, with the exception of matters in the federal list, because under the Constitution, the primary power to create criminal laws lies with federal legislators. Therefore, states cannot pass criminal laws beyond the limitations set out for Syariah Criminal Enactments. Article 75 of the Constitution states, "If any state law is inconsistent with a federal law, the federal law shall prevail and the state law shall, to the extent of the inconsistency, be void" (90).

Kelantan Syariah Criminal Code (II) Enactment 1993

In the 1990 general election, PAS captured the state of Kelantan. Three years later, members of the state assembly passed the Syariah Criminal Code (II) Enactment 1993, which contained provisions for *hudud* punishment. *Hudud,* from a legalistic point of view, means "a punishment which has been prescribed by God in the revealed text of the Qur'an or the sunna, the application of which is the right of God [*haqq* Allah]" (Salbiah Ahmad 1995, 20). The Kelantan enactment included six types of *hudud* offenses: *sariqah* (theft); *hirabah* (highway robbery); *zina* (adultery or sexual intercourse between a man and a woman out of wedlock); *qazaf* (slanderous accusations of *zina* without four witnesses); *syurb* (consumption of alcohol); and *riddah* (apostasy).[11] It prescribed harsh punishments, including the death penalty for apostasy, mutilation (by amputation) of hands and feet for theft, and *rejam* (stoning until death) or lashing for *zina*.[12] It excluded women as witnesses, discounted women's testimonies in court, and allotted *diyat* (compensation) for the death or injury of women at one-half the value of men. Legal scholar Mohammad Hashim Kamali opines that the enactment "exhibits no attempt to exercise *ijtihad* over new issues, such that would fulfill the ideas of justice and encourage the development of a judicious social policy" (1995, 11).

The enactment is a part of PAS's quest to establish *syariah* as the basis of the Constitution. Those opposing it were warned that they have "deviated from the true teaching of Islam" and are "apostates" who are "punishable by death" (Rose Ismail 1995, 169; Salbiah Ahmad 1995, 19).

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The enforcement, however, remains suspended because criminal laws fall under federal jurisdiction. Since Muslims are governed by both civil and *syariah* laws, the enactment exposes jurisdictional ambiguity between the federal and state governments as well as the competing claims of the parallel justice systems that govern Muslims.

SIS's first memorandum in response to this enactment was written in 1993. It was addressed to former prime minister Mahathir Mohamad. In the memorandum SIS posed a salient question: "Should we as mere humans insist upon the imposition of *hadd* laws [singular of *hudud*] when they should remain as *haqq* Allah, a matter solely between the believer and the Almighty?" SIS explained that *hudud* punishment is based on historicized *ijtihad* and given political power through processes of *ijma* (consensus). However, the punishment does not necessarily indicate the consent of a majority of jurists. Moreover, PAS's conceptualization of *hudud* violated the Qur'anic message of justice because it eliminated provisions for repentance and forgiveness.[13] SIS also raised the question of jurisdictional ambiguity.

Among the important discriminatory issues brought to public attention was the lack of differentiation between *zina* and rape. The enactment stated that pregnancy or childbirth in the case of an unmarried woman is evidence of *zina*. *Hudud* punishment would apply unless a woman is able to prove rape. In establishing rape, the burden of proof falls on the woman, who must demonstrate the intent of the rapist, produce physical evidence (e.g., bruises), and procure the testimony of four male Muslims of "just character" who witnessed the rape.[14] However, as witnesses to rape, the four men (who did nothing to stop it) could be complicit in the crime and therefore would not qualify as having "just character" (Salbiah Ahmad 1995, 13–18). The indistinguishable classification of *zina* and rape left the burden of proof with the victim, which not only re-victimizes the victim but also negates Qur'anic teachings of justice. In addition to the memorandum, SIS organized forums and workshops to facilitate public debates.

SIS labeled the enactment a "premodern understanding of Islamic law" and argued that it contradicted the "Malaysian culture of modernity": "We have built in our society a culture of tolerance, respect for others, and, no less notably, the emancipation of Muslim women consistent with an enlightened understanding of Islam. In no other country which calls itself

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Muslim do women enjoy the same freedom of movement, association, and education as in Malaysia. . . . Malaysia neither needs nor deserves the widespread criticism that some other countries have received from modern Muslims and Islamic human rights lawyers worldwide." Through such reasoning, SIS reconstituted the enactment as a cultural and human rights threat, as well as an impediment to the country's desire to be the leader of democracy in the Muslim world. In doing so, SIS cast PAS and its lawmakers as having a premodern mentality and upheld BN's role as the savior of linearity of progress. While this strategy of capitalizing on and appealing to the sensibilities of prime minister Mahathir—who championed himself as the promoter of Islamic modernity—was necessary, SIS also inadvertently aligned itself with state monopoly of Islam and opened itself up to a possibility of state co-optation.

Although the federal government did not disagree with the tenets of *hudud* laws, Mahathir expressed reservation over PAS's manipulation of Islam. He suggested that PAS's motivation was grounded in the need to secure Islamic political legitimacy. He voiced concern about complications resulting from enforcement of the enactment in a multiracial society. The federal government eventually rejected the enactment because it "does not comply fully with the law, spirit and attributes ingrained in Islam . . . it is not harmonious with *maqasid al-syariah* [the underlying purpose of *syariah*]" (Mahathir Mohamad 1995, 75). This decision is in line with the position of SIS members on the wider implication of PAS's politicization of Islam. The shared concern between Mahathir and SIS was not coincidental. Khadijah recounted the members' meeting with him after the submission of their memorandum:

> Mahathir and Barisan Nasional were fighting PAS on *hudud*. He invited us to his office after we sent him our memorandum. He stated that while he supported our work privately, he would not give us public support. We were rather disappointed. If he had openly supported us we could have made a stronger case. Our perspective on *hudud* was acceptable to him because of the political struggle between the state and PAS. We were seen to be on the side of the state. Many people did not know what we were moving toward with our memorandum, but they knew it was not toward *hudud*, and that was enough. People were scared of *hudud*, and that worked in our favor.

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With Mahathir's private support, SIS had a strong ally at the state level. Although SIS does not shy away from leveling critiques at the state or at any political leaders who discriminate against women and fundamental liberties, this particular alliance with the state proved to be beneficial in maintaining access to a public space, as is evident from Suhana's statement: "Mahathir was very pleased with our memorandum. He said that our rationale was the type of argument he was looking for but was not getting from the religious scholars. It was clear to us that whenever Mahathir made statements to the media, he was using our language from the memorandum on the *hudud* and *syariah*. We thought that was great." Given SIS's lack of solid public constituency at that point, such support was relatively advantageous; however, as discussed earlier, this particular level of collaboration had the potential to render the organization vulnerable to state co-optation. A strategic balancing act was necessary to protect the rights of citizens while maintaining organizational integrity. This is particularly noteworthy in relation to how "women's organizations are often the immediate recipients of the state's attempt to reassert its power basis and legitimacy in light of widespread Islamist opposition" (Al-Ali 2005, 103).

Terengganu Syariah Criminal Offence Enactment 2002

After the 1999 general election, PAS won control of Terengganu. In 2002, the state assembly passed the Syariah Criminal Offence Enactment. This enactment was similar to the Kelantan enactment in that it was afflicted with jurisdictional ambiguity and therefore not enforceable. SIS, working under a coalition of NGOs,[15] expressed disappointment that the lawmakers in Terengganu had chosen to ignore the debates and recommendations following the Kelantan enactment. SIS called into question stipulations that stated that a woman who reports she has been raped will be charged with *qazaf* and flogged eighty lashes if she is unable to prove the rape; an unmarried woman who is pregnant is assumed to have committed *zina*, even if she has been raped; and a woman cannot be a witness (SIS 2002a).

SIS employed the same arguments as with the Kelantan Enactment and suggested that the additional discrimination—the intent to flog a woman with eighty lashes—is not only a "distortion and perversion of God's Law"

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but also an unconscionable strategy to deter rape survivors from reporting the crime. The Enactment's dictates were cast as "irrational provisions" based on "man-made innovations" and "misogynistic attitudes," because Qur'anic provisions, in contrast, are "very protective of women" (SIS 2002a). Reflecting on this enactment, SIS issued a public statement:

> The goal of Islamic authorities is to prevent crime in the first place, not to inflict punishment. Promoting and protecting the human rights of the *ummah* [community], ensuring socioeconomic justice, educating the *ummah* about God's teachings and laws in order that they become responsible for abiding by them are prerequisites before the *hudud* punishment can be implemented. . . . *Syariah* is based and constructed on the principle of *maslaha* [what secures the best interest of the people]. Islamic law must establish justice. Anything that turns justice into injustice, mercy to cruelty, benefit to harm, and wisdom to foolishness and meaninglessness becomes *mafsadah* [harmful] and cannot be said to be Islamic. (SIS 2010c)

With letters published in the local newspapers, SIS once again led a public debate to protect the rights of women and to ensure that justice be meted out according to the Qur'anic teachings. The members demonstrated their grasp of sources of Islam and Islamic history, as well as constitutional law and human rights principles, to make their case that the goal behind *hudud* was crime prevention and the promotion of morality and justice, not oppression and tyranny.[16]

Islamic Family Law (Federal Territories) (Amendment) Act 2005

The Islamic Family Law (Federal Territories) (Amendment) Act 2005 further eroded existing rights for women within marriage in relation to divorce, maintenance, and polygamy. Under the Joint Action Group for Gender Equality (JAG),[17] SIS opined that the amendments contradicted Article 8 of the Constitution, which guarantees gender equality,[18] and digressed from Qur'anic conceptions of justice. JAG outlined five major flaws in the amendment: (1) the right of the husband to claim a share of his wife's *harta sepencarian* (matrimonial assets) upon his polygamous

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marriage; (2) making polygamy easier for men by amending the condition from "just *and* necessary" to read "just *or* necessary"; (3) forcing a wife to choose between *nafkah* (maintenance) or division of *harta sepencarian* upon a husband's polygamous marriage; (4) extending the wife's right to *fasakh* (dissolution of marriage, or divorce) to the husband, even though he has unilateral right to pronounce *talaq* (divorce) to his wife;[19] and (5) the ability of a husband to obtain a court order to prevent or restrain his wife from disposing of her property.

Suhana explained that the journey of this act began in 2002 when SIS and JAG submitted a memorandum to the state in response to discriminatory amendments made to the IFL: "We asked the minister for women to review these amendments and to include us in the consultation with JAKIM. We were included, but we were not able to come to a consensus, and unfortunately, by 2005 the bill had been adopted in eleven states." SIS was troubled by the ease and speed with which the bill was adopted by these states. When it came time for it to be presented to the Parliament and cabinet in the Federal Territories, SIS began a campaign to raise public awareness about inequalities in the amendment. When the Dewan Rakyat (House of Representatives) passed the bill, SIS lobbied women senators of the Dewan Negara (Senate) by outlining reasons to suspend it pending further review.

The basis of their arguments was that the amendments cause unwarranted hardship for women. Changes from "just *and* necessary" to "just *or* necessary" as a condition for polygamy indicates that a man does not have to concern himself with being just but is only required to prove that polygamy is necessary. The practical implication of this act is exemplified by the story of Zaidah Abdul Rahman, a forty-four-year-old mother of three who approached SIS for legal assistance. Zaidah, often known as the "first casualty" of the act, was encouraged to give up a lucrative career in real estate to raise children. She was divorced outside of court after twenty years of marriage. Zaidah's former spouse froze her bank accounts and that of her eldest daughter, forcing her to sell her jewelry to support the family (*New Straits Times*, December 24, 2005). Nur says, "The law already gave men more rights than women, particularly in divorce. The move to further disregard our rights is intolerable. Look at what happened to Zaidah and her children. It is horrible. She sold everything to feed her children. How can the authorities claim that this is Islam?"

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Shahrizat, at that time the minister of KPWKM, initially supported JAG's memorandum. But under pressure from UMNO-BN, she rescinded her support. Arguing that her stance was in favor of standardizing family law, Shahrizat attempted to placate women's groups by ensuring that changes would be made after the bill was passed (*Malay Mail Online*, February 11, 2006). Moreover, the women senators whom SIS lobbied spoke up against the bill but were ordered by a minister in the prime minister's department to vote along party (UMNO-BN) lines in support of it. The senators were reassured that after the bill was adopted, their objections would be dealt with, but many were deeply troubled by the process (*Star Online*, December 22 and 23, 2005). Dayang Mahani Pengiran Ahmad Raffae, a senator from Sabah stated that the bill "seemed to increase the burden on women." She further voiced her sorrow and discontent: "I apologised [*sic*] to my daughter that I, as a legislator, am powerless to do anything else. It is against my conscience. I give my support on condition that the amendments will be taken into account." Another senator, Dr. Norraesah Mohamad, suggested the policymakers consider their actions given that "sixty per cent of the population is Muslim Malays, of whom half are women. Yet the bias against women is well known. When the sense of security is absent, the law is weak" (*Star Online*, December 23, 2005).

Aside from lobbying senators, SIS and JAG launched a series of public talks, press conferences, and petition and letter-writing initiatives. In January 2006, the prime minister's office postponed gazetting and implementing the act and directed the attorney general to consult with SIS, JAG, JAKIM, and various other state agencies to review it. Halimah victoriously declared, "Our objection to the act was a huge success. We raised awareness to the extent that the public demanded the act's withdrawal. However, Shahrizat turned against us because of party politics. She was afraid to stand up to the men in her political party. This taught us a lesson—even when we are able to influence key people in government, we still needed to be vigilant. We never know who would turn against us." Melia, a former SIS staff member, offered her view of why the act was not gazetted: "We did our homework about the act. A lot of 'gender neutral' words were used, but the intent was not gender equality. Because of our advocacy, the act went to the attorney general's office, which is an anomaly because the religious department usually handles IFL. It was the first time this has happened in Malaysia. It was a victory for us when

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the attorney general was asked to take over because it signified that religious authorities do not have the exclusive right to make laws."

As previously mentioned, Melia and I became close during my fieldwork, and she played an important role in connecting me with informants. She was raised in a middle-class family in Melaka. The only child of a high-profile attorney mother, Melia is savvy, personable, and well known in the inner circle of NGO activists. More comfortable conversing in English than in Malay, Melia has an active social life and a large group of non-Muslim friends. Her upbringing, education level, and religious knowledge have given her the strength to resist the social pressure to conform to the conventional conceptions and practices of Islam. She has benefited tremendously from her work with SIS, particularly in appreciating the Qur'an: "Reading the Qu'ran is like reading Foucault—the language, meaning, and metaphors are complex, but SIS has given me the space to learn the text without imposing judgments on my disagreements with it." Melia was one of the key people working on contesting the act. She used her extensive connections in civil society and politics to mobilize public awareness about the so-called gender-neutral provisions in the act.

SIS's lobbying and advocacy for this act raised public consciousness and paved the way for it to be reviewed. It is also noteworthy that SIS was invited to be a part of JAKIM's Technical Syariah and Civil Law Committee, which was responsible for reviewing the act. The decision of the then–prime minister Abdullah Badawi's office to move the review outside the religious department's realm of authority is highly significant. But does it indicate a shift toward lessening the power of religious authority? Should not SIS/JAG have seized the moment to pressure the state to clarify the role of Islamic authorities and the lack of transparency in passing the act? What of the implications of party politics in the creation of national laws? Since 2005 women's groups have continued to pressure the state for a favorable outcome, but at the time of this writing the act is still under review.

RELIGIOUS FREEDOM AND MULTICULTURALISM

SIS's high-profile intervention in the contentious debate on conversion and apostasy, and the protection of religious minorities under the Constitution, began with an interfaith custody case.

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> A Hindu couple, Shamala and Jeyaganesh, contracted a civil marriage under the Law Reform (Marriage and Divorce) Act of 1976. Jeyaganesh later converted to Islam. He also converted the couple's minor children without his wife's knowledge or consent. While Shamala initiated a custody order from the high court, he obtained an ex parte *hadanah* (custodial order) from the *syariah* court. Once he initiated a divorce proceeding at *syariah* court, Shamala was summoned for *hadanah* and divorce proceedings. As a Hindu, she is not subject to *syariah* jurisdiction, but given her failure to appear in *syariah* court, a warrant was issued for her arrest. It was later stayed on the order of a high court judge. The high court awarded joint custody to both parties but stipulated that Shamala's guardianship be dependent on the condition that she refrains from imparting Hinduism to her children.[20]

This case reflects the competing jurisdictions of civil and *syariah* laws. Although minority groups are protected under civil law, when one spouse converts to Islam, the non-converting party experiences complicated and inequitable legal proceedings related to matrimonial and custodial matters. In late December 2007, haunted by a string of highly publicized cases, the federal court decided that civil courts under the Law Reform Act of 1976 have exclusive jurisdiction over marriage and custody disputes in the event that one spouse converts to Islam (Kuppusamy 2007).

Melia explained that SIS began to be involved in the religious freedom debates when the organization where Shamala sought assistance approached SIS:

> SIS's expertise on IFL was needed for Shamala's case. The question was whether Jeyaganesh had the right to convert their underage children and divorce his Hindu wife in *syariah* court. We believe that a Muslim should not take advantage of IFL on custody and dissolution of a marriage contracted under civil law. Where is the right of the mother in this? During this case the Article 11 group was formed and we lobbied for Shamala. At that stage, our concentration was purely IFL. After Shamala, other cases, such as Lina Joy, Revathi, and Moorthy received prominence in the media.[21] That was when the freedom-of-religion argument exploded. IFL actually started the ball rolling for SIS.

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SIS was the only Muslim organization providing support for Shamala and her lawyers in the areas of legal advice, translation of letters (into Malay), and press statements. SIS's involvement was based on the beliefs that Islam should not be a tool of injustice and that the rights of a Muslim majority should not be held above those of minority groups. Jeyaganesh's action to divorce Shamala and deny her the right to parent their children in *syariah* court contradicted Qur'anic teachings and, SIS asserted, should not be condoned by the state. SIS is adamant that legal arbitration should reflect Islamic justice and respect for Malaysia's multiracial population.

The Article 11 Coalition (hereafter Art 11) is an umbrella of NGOs, lawyers, academics, and activists formed to uphold constitutional supremacy, an alliance many conventional Muslims consider a threat to the preeminence of Islam and Malay rights. SIS is the secretariat for Art 11. The coalition has organized public forums to explain its objectives, clarify misconceptions, and discuss religious freedom in a communal manner. Public response has been mixed and has included heated opposition and interruption by protesters. Attempts to address non-Muslim conversion related to matrimonial matters ended abruptly after threats and frenzied protests, including the use of Molotov cocktails by Islamic NGOs, Islamist groups, and a few Malay politicians. In a press statement, SIS condemned the protests committed in the name of Islam, labeling them "extremist" and "terrorist" actions serving to reinforce perceptions that equate Islam and Muslims with violence and irrational actions (Adib Zalkapli 2008). In response to public protests and pressure from Islamic NGOs, Islamist groups, and members of his own political party (UMNO), former prime minister Abdullah Badawi clamped down on public debate and issued a "gag order" barring Art 11 from public discussions of religion. He said, "If the discussions are not kept in check or contained, they are bound to raise tension in our multireligious society. Religious issues are even more sensitive than ethnic issues" (Shahanaaz Habib and Izatun Shari 2006). My interlocutors joked that issuing a gag order on religious discourse is akin to telling Malaysians to be "bisu, pekak dan buta" (mute, deaf, and blind), as the interconnection of religion, law, and politics is a staple conversation topic.

Since the religious freedom issue continued to inflame multicultural tensions, SIS issued a press statement calling for the preservation of constitutional supremacy by stressing that all citizens, regardless of gender,

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race, or religion, deserve equal protection under the law. Based on the three-pronged strategy of feminist hermeneutics, constitutional law, and human rights principles, as well as evoking former prime minister Abdullah Badawi's Islam Hadhari, SIS urged the state to handle cases of conversion and apostasy with fairness and to consider contemporary realities, Qur'anic teachings, and Malaysia's reputation as a "modern" and "moderate" country. SIS uses the state's self-styled role as a leader of Islamic modernity to indict the state for behaving irresponsibly. Drawing on Al-Maidah 5:8 ("Stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice"), SIS encouraged Muslims to speak up against injustices committed toward their fellow minority citizens. Moreover, based on Al-Baqarah 2:256 ("Let there be no compulsion in religion. Truth stands out clear from error; whoever rejects evil and believes in Allah hath grasped the most trustworthy hand-hold that never breaks. And Allah heareth and knoweth all things") and Yunus 10:99 ("If it had been thy Lord's will, they would all have believed—all who are on earth! Wilt thou then compel mankind, against their will, to believe!"), SIS argued that the fundamental aspect of Islam—"submission"—underlies one's status as a believer and is nonenforceable (SIS 2007).

As Art 11 secretariat, SIS members have received numerous threatening phone calls and e-mails. In 2006, the office was twice burglarized and the executive director's computer was stolen. Some members attribute these break-ins to SIS's advocacy for the Islamic Family Law (Federal Territories) (Amendment) Act of 2005. Mazifah Karim, a former staff member, recalled a trip to the state of Johor to facilitate a forum on religious freedom: "Five SIS members were in one car. An unknown vehicle tailed us on the way to our hotel, but we did not tell the [SIS] management about this. We were scared that something bad would happen to us. The forum went well, but we finished early because there were many Muslim men protesting outside the building. They were loud and unruly. When we left the building, they mocked us. They took our photos with cell phones, threatened to distribute them online, and called us horrible names." Mazifah, who is in her early thirties, is soft-spoken and shy. She was raised by a single mother in a working-class home and has led a relatively sheltered life. Her mother worked two jobs and did not have time for her religious education. Mazifah knew very little about Islam, but this did not bother her because Islam was

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the "domain of religious scholars." Before working for SIS, she had little interest in Islam. After six months with SIS and involvement in religious freedom debates, I detected a shift in Mazifah's sense of responsibility as a Muslim. From the time I got to know her until I left Malaysia after completing my field research, I saw how she transformed into a poised activist, often discussing religious issues with a knowledge and confidence that was not evident when we first met. When I broached the subject of this transformation with her, she called it an "Islamic awakening" and said, "The more I study the history of Islam and the complexity of the Qur'anic interpretation process, as well as why and how women did not play active roles because of the circumstances, the more excited I become about SIS's work because it is clearly important."

Given Malaysia's highly charged, religious-based political culture, many Muslims perceive SIS's role as secretariat for Art 11 as controversial. They view SIS as an organization advocating exclusively for Muslim women's rights and, as a result, believe that it should not be involved in matters of religious freedom. Moreover, as a Malay and Muslim organization, SIS is expected to maintain the status quo and preeminence of state-sanctioned Islam. What many fail to understand is that SIS's struggle for Muslim women's rights, informed by a multiracial context, is entangled in the larger struggle to preserve constitutional supremacy and to uphold respect for religious minorities. The struggle is equally dependent on the organization's ability to secure a democratic space for public debate, often in collaboration with other civil society groups. Therefore, as responsible citizens, SIS members cannot advocate for the rights of one religious group while abandoning accountability to the larger social context in which they operate. Suhana addressed this matter:

> We took up freedom of religion because it affected Malaysian women's rights. We cannot just fight for Muslim women's rights. We are in Article 11 because we are a part of a movement. Moreover, it was because other groups needed our knowledge, support, and moral presence on Islamic matters. You cannot pick and choose what you want to do in advocating for fundamental liberties. Of course, tactically you can pick and choose, but there are certain issues in which you cannot abdicate responsibility. Freedom of expression and freedom of religion are fundamental issues that we cannot be hypocritical about. We want non-Muslims to sup-

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port our rights, so how can we not support the rights of a non-Muslim mother whose children were taken from her? Can we stand by and watch Shamala lose her rights under the civil law because her husband converted to Islam and took advantage of IFL?

The decision to participate in Art 11 amplified the tension inherent in the delicate organizational dynamics involving class, language, educational levels, and individuals' degree of religiosity. Although a few staff members complained that they were not consulted on the Art 11 involvement, it is not clear what discussions took place or what they included. It is possible that such discussions may have been conducted only with board members and senior management. Suhana clarified the decision making on Art 11: "It was discussed, and we decided that we were not going to be at the forefront of Article 11. We did not attend press conferences or sign court affidavits. We were careful with these things, but it is irrelevant for people who want to attack us even if we do not play the lead role. Those who feel that we are the biggest barriers to their ideological project of an Islamic state will always malign us." Many of SIS's staff come from working-class families. They are more proficient in Malay, have conventional families, and have completed a basic degree at a local college or university. In my conversations with them, either privately or in a group, they conveyed that they sometimes feel "out of place" in sharing their opinions because the majority "modern" and "educated" views triumph. They are perceived as lacking the sophisticated grasp of Muslim politics and NGO advocacy of the managerial staff and the founding members. Many staff members expressed anxiety about the negative public perception of SIS because of Art 11.

According to Melia, many Islamic NGOs refused to collaborate with SIS on IFL. She lamented that SIS "needs to regain the trust. Before Article 11, there were frequent invitations to speak about IFL. Since SIS became the secretariat, this is no longer the case, and it is terrible because we need to build support to reform IFL. We really have to restrategize." Melia's discontent can be understood through the opposing stances of two groups: those who support SIS taking on religious freedom but are opposed to their method of participation, and those who oppose SIS's participation because it is seen as disconnected from the "core" issue, which is IFL. The following are viewpoints of the staff:

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Najwa Salih: SIS's involvement [in Art 11] has a deep impact. While SIS is not asking Muslims to become apostates, by opening up the debate on religious freedom SIS can be seen as clarifying the procedure for Muslims to leave Islam. The laws are confusing, but SIS made it clear that the Constitution should prevail, which angered many Muslims. I was told that our involvement in religious freedom is necessary because it is related to women's rights. I am still not sure about how to think about the relationship between women's rights and religious freedom. Moreover, there are practical issues involved. For example, we do not have enough staff members to deal with religious freedom. Our primary focus must be on IFL.

Kamariah Mustafa: In Malaysia, Islam equals politics. Cases of apostasy have the potential to destabilize the political system and Malay-Muslim stronghold. I think SIS's support for Article 11 was a bad decision. A lot of things need to be changed, but is religious freedom the most important one? Of course religious freedom is important. But IFL reform is also important. I know that religious freedom is also about women's rights, but the way SIS has approached the issue is not right. The "in your face" strategy does not fit well with many conservative Malays.

Eryana Sulaiman: Before the apostasy issue and Article 11, my family knew I worked at SIS but they did not know anything about SIS. Now they know because of the [religious freedom] controversy. Even my friends have negative views of SIS. They do not understand why SIS is encouraging Muslims to leave Islam. I do not know where SIS stands on this matter and I avoid discussing it in the office. My mind and reasoning can understand the arguments made by Article 11, but my heart and belief cannot. I know many people who feel the same way. It makes them angry with SIS. We used to focus on IFL, but now we only care about religious freedom.

Najwa, Kamariah, and Eryana were raised in working-class families in the outskirts of Kuala Lumpur. Their families are conventional, and their understanding of Islam mirrors the normative Malay majority. While working for SIS has broadened their views of Islam and women's issues, it has not provided them a space to reconcile their upbringing and newfound knowledge. They are more comfortable conversing in Malay than in English. They are reserved and find it challenging to fit into SIS's boisterous organizational culture. More often than not, this has led them

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to silence their views to avoid unpleasantness. Melia, who is protective of these young women, frequently encouraged them to share their thoughts during meetings but was unsuccessful. When prodded on this matter, Najwa, Kamariah, and Eryana said they represented the minority viewpoint and did not feel that their thoughts were welcome.

Their narratives indicate that they are conflicted on personal, spiritual, and professional levels. They are torn between their "new" knowledge of Islam and the lay Islam they are most familiar with; between individuality and communal loyalty; between personal and organizational conceptions of Muslim women's rights and religious freedom; and between narrowing and broadening the scope of SIS's program and advocacy. The lack of organizational transparency in SIS's involvement in Art 11 and the lack of clarity concerning the relationships among "core," "concern," and "support" areas have contributed to the staff members' ambiguous feelings about religious freedom.

STATE REGULATION OF BEHAVIOR AND MORALITY

Over the past two decades, the state has stepped up its attempt to determine an "Islamic moral standard" under the Syariah Criminal Offences Enactment that chastises acts construed as "offenses" against Islam. The following cases shed light on how disciplinary actions are justified, instituted, and legalized based on parochial interpretations of Islam.

> In 1997, the Selangor Islamic Department (Jabatan Agama Islam Selangor, JAIS) arrested three Muslim women for participating in the Miss Malaysia Petite contest. These contestants were unaware that there is a law banning Muslim women from beauty pageants. They were convicted for indecent dressing (leotard swimsuits) and were fined RM 400 (USD 145) each. (Richardson 1997)

> In 2003, a team from the Federal Territories Religious Department (Jabatan Agama Wilayah Persekutuan, JAWI), with the assistance of the Volunteer Reserve Corps (Ikatan Relawan Rakyat Malaysia, RELA), arrested Maslinda Ishak and several Muslim women working as guest relations officers (GRO) at a nightclub. They were taken to the police station in a truck. Maslinda sought permission to use the bathroom but

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was told to relieve herself in the truck. She asked friends to surround and shield her with their scarves, but as she was easing herself, a RELA member opened the truck door, pulled the scarves away, and photographed Maslinda in the act of urinating. (Gomez 2008)

In 2005, JAWI enforcement officers raided the Zouk nightclub in Kuala Lumpur and arrested about one hundred Muslim patrons. They were detained for ten hours without access to basic amenities. The religious officers claimed that those arrested were dressed indecently or had consumed alcohol. A number of women complained that the religious officers ordered them to pose in their nightclub outfits while others were asked lewd questions about their genitalia. (Kent 2005)

These cases focus the spotlight on the notion of *maslaha* (common good/public interest), which brings the following questions to the fore: Who has the right to determine what constitutes "Islamic morality"? Who decides which interpretation of Islam is used in determining "deviant" behavior? Halimah was visibly agitated when we spoke about this: "Can you believe that the law [Syariah Criminal Offences Enactments] could be drafted and enforced without any public debate? This is a serious matter that impacts peoples' lives, but the process was not made transparent. It impacts me as a Muslim. Yet I have no say in the process. What makes the state and the *'ulama* think they can tell people how to be Muslims? They are not God." In the drive toward remaking Malaysia into a fully industrialized country, the country's leaders have restructured the religious establishment and integrated the *'ulama* into state bureaucracy and politics. As those who are authorized with specific knowledge and the consent of the state, the *'ulama* set the parameters of Islamic discourses and practices. I am not suggesting that the *'ulama* are an antiquated group simply serving as an arm of the state, or that they are wedded to fossilized interpretations of religion. Nevertheless, they participate in reproducing the religious monopoly and, in that process, are vulnerable to co-optation by regimes of power dependent on their knowledge.

While Muslims know of the Syariah Criminal Offences Enactments, many are uninformed of the scope of the law and are unaware of how they can be affected. State apparatuses such as JAIS, JAWI, and RELA support the enforcement of the enactments. JAWI has launched a

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twenty-four-hour enforcement hotline and has plans to increase the number of its enforcement officers (Khairil Anhar 2008). Moreover, self-appointed "moral police," made up of Muslims who believe it is their collective responsibility to deter fellow Muslims from "immoral" practices, are also taking part in defining "indecent" and "deviant" behavior. The "moral police" harass Muslim women who do not wear the *tudung*, who mix with non-Muslims, and who are present in nonsegregated settings (Norani Othman, Zainah Anwar, and Zaitun Kasim 2005). PAS recently enforced a law in Kelantan that allows state authorities to penalize Muslim men who fail to attend Friday prayers for three consecutive times with a fine of RM 1,000 or imprisonment up to a year or both (*Malay Mail Online*, November 12, 2014). Ethnic and religious minorities are also concerned with this moral policing, especially in light of recent discussions to extend punishment for *khalwat* to non-Muslims (*Star Online*, April 24, 2008).

The increase in moral policing is concerning, yet selected cases are used to affirm the global anti-*syariah* panic that is bent on criminalizing Islam and Muslims. Realistically, however, the situation is more complex. Peletz, who spent two years observing *syariah* courts in Penang and Kuala Lumpur and analyzing court documents, demonstrates that the courts are dominated by civil cases concerning "divorce, spousal maintenance, child support and conjugal earnings" (2013, 613). Thus, to understand the discrepancy between reported high-profile criminal cases involving alcohol consumption or sexuality and actual court cases, attention must be paid to how the publicity surrounding these cases is tied to the politics of gender and class, as well as how it figures into the larger dynamics of NGO-state relations and civil society organizing. Moreover, this discrepancy serves as a reminder to us not to rush to oversimplify *syariah* judiciary as archaic or monolithic but instead understand it as "global assemblages insofar as [it is] forged in relationship with multiplicity of global discourses, practices, incentives, and constraints, widely disparate in origin, often keyed to analytically distinct processes of bureaucratization, rationalization, and corporatization" (625).

Following the arrest of women participating in the Miss Malaysia Petite contest, SIS has been at the forefront of campaigns opposing moral policing. The organization has written letters to the editor, submitted memoranda, spoken at public events, and collaborated with groups in

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civil society (e.g., Malaysians against Moral Policing, MAMP) to address this matter. In response to the increase in the number of morality-related arrests, MAMP issued this statement: "We question the state's role in defining and controlling the morality of its citizens and its use of punitive religious and municipal laws. Forced and fearful compliance with such laws results not in a more moral society but a mass of terrified, submissive, and hypocritical subjects. . . . How people dress and where, how, and with whom they socialize are personal choices . . . laws must be changed to reflect our increasingly open and progressive society" (SIS 2012). The actions undertaken by the religious establishment in conducting raids; humiliating youth, women, and men; and instilling fear in citizens are examples of how some religious authorities assert their power and solidify their monopoly on Islam, and of how, in the process, they silence alternative viewpoints and foreclose spaces of constructive dialogues. SIS views the fervor with which religious authorities enforce their interpretation of "Islamic morality" as an insult to thinking Muslims and a violation of the Qur'anic spirit of justice.

SIS draws on the Qur'an and reliable hadith to contend that moral policing is "against Islam's exhortations to respect an individual's right to privacy and human dignity" (SIS 2006b). The verses include Al-Hujarat 49:12 ("Avoid suspicion as much [as possible]: for suspicion in some cases is a sin: And spy not on each other behind their backs") and An-Nur 24:27 ("Do enter not houses other than your own, until ye have asked permission and saluted those in them: that is best for you, in order that ye may heed [what is, seemly]"). Staying true to their three-pronged strategy, SIS claims that state encroachment into the private lives of citizens violates fundamental liberties: "The balance between law and morality must be decided by society in a democratic manner and not through legislation driven from above with no public support nor public discussion" (SIS 2010b). In this statement, SIS appeals to the desire of Malaysian leaders to promote the country as the champion of Islamic modernity. Here we see how, to push its own agenda, SIS capitalizes on the state's desire to improve its image abroad.

SIS members are disturbed by the increasing scrutiny of Muslim women's behavior, clothing, and freedom of association. Kamariah expressed her frustrations: "Jaga tepi kain orang bukan ajaran Islam [It is un-Islamic to spy on other people's business]. Don't these religious men have

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better things to do? Such as revise the IFL so justice prevails? Instead, they seronok kacau perempuan [enjoy harassing women]." Mazifah said that Maslinda's case is an example of how misogyny triumphs under the guise of religious edicts: "Perbuatan lelaki RELA kepada Maslinda sangat jijk. Dia tak ada mak atau kakak ke? Tak malu ke kalau orang buat mak atau kakak dia macam tu? Islam apa tu? Muslim macam mana ni?" (The RELA man's action in relation to Maslinda is really revolting. Does he not have a mother or sister? Wouldn't he be embarrassed if it happened to his mother or sister? What type of Islam is that? What kind of Muslim is he?).

By arguing against un-Islamic and unconstitutional methods of constructing behavioral boundaries, SIS is heeding An-Na'im's call for Muslims to rethink their relationship with Islam by "[taking] responsibility for the relevance and meaning of their religious beliefs to their own lives, instead of perceiving themselves as passive objects of manipulation by forces beyond their control" (2005, 337). SIS is repackaging Islam by asking Muslim citizens to engage with their religion on spiritual, intellectual, and political levels. In order for Islam to remain relevant and for Muslims to participate in the globalization process without sacrificing their religious heritage, SIS argues that the practice of privileging *taqlid* can no longer find justification in the twenty-first century. In struggling for rights, SIS is reimagining a community of Muslims that supports gender justice and protects the civil liberties of both Muslim and non-Muslim citizens. The activism of SIS is a part of the vibrant Islamic tradition of *tajdid* (revival) and *islah* (reform)—processes that continue to be constituted and reconstituted through various modes of expression and mobilization and are a product of a particular historical formation.

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